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# Should Alien Communists be Deported for their Opinions ?

*Speech by*

ROGER N. BALDWIN

*in debate with*

HAMILTON FISH, Jr.

*before the Boston Foreign Policy Association*

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## *Should Alien Communists be Deported for their Opinions?*

**A**MONG the chief proposals advocated by the Congressional Committee investigating Communist activities, headed by Hamilton Fish, Jr. is the deportation of all alien Communists merely for their membership in the Communist Party.

Mr. Fish's view is that the Communist Party is an alien conspiracy aimed at the overthrow of the government by violence.

In the Boston debate he said: "I see no reason why the people of the United States should tolerate them or even compromise with them. If they don't like our form of government, let them go back home and enjoy the pitiful low wages and lack of freedom of speech under the most autocratic government in the world."

This reply by Roger N. Baldwin states the facts and the arguments against deportations for opinion, and against the suppression of the Communist movement, as advocated by Mr. Fish.

### *The Issues*

**I**N these years of unparalleled intolerance and repression which have marked our country since the war and the Russian revolution I have been engaged in defending the right of agitation by any and all minorities, however unpopular or revolutionary—Communists conspicuous among them. It is a service to American life supported by men and women of all political views, from the respectable right to the dubious left.

Despite the strictures of Mr. Fish's Committee, there is no taint of revolution about us. If we defend Communists far more often than others, it is only because they are everybody's target. To defend a man's rights is not to subscribe to his views. And it would be impossible for us to share all the warring views of the assorted lot whose rights we champion.

### *The Free Speech Principle*

It should be axiomatic in any professed democracy that freedom of expression is essential to orderly progress. Without it, all the forces concerned with a given conflict cannot be appraised. Suppression of any opinion, however violent or revolutionary, encourages violence by invoking the violence of authority. It gives one party to a conflict an arbitrary and unfair advantage. Any interference with the expression of views, however extreme, violates the sound principle long boasted as inherent in American institutions. To stifle by force criticism of existing institutions evidences at once fear of their stability. It is a confession of weakness, of intellectual inability to examine and defend the established order.

Holding these views, I am opposed to deporting any alien for his opinions, whatever those opinions may be. I am equally opposed to refusing admission to any alien because of his views. And I am opposed to prosecuting or interfering with any aliens or citizens for expressing their views, conducting their propaganda, organizing political or industrial movements, and protesting against what they regard as the injustices of our system. Short of an overt act or an attempted act, I would interfere with nobody. Freedom to agitate promotes peaceful solutions. Suppression breeds violence.

### *American Tradition*

Such a position marked both American law and public opinion until recent years. For over a century we had no laws excluding or deporting aliens for their views. We boasted of a land of asylum which freely admitted the great champions of oppressed peoples under alien tyrannies. The United States government sent an American warship to bring Kossuth, the Hungarian liberator, to this land, over the protest of the Austrian minister. We welcomed the Russian revolutionists, even those who defended the assassination of czars. The hearts and pocketbooks of thousands of Americans responded to the Irish rebels.

But that policy and that tradition began to suffer first from the agitation against the Mormons, responsible for our earliest inquisition into aliens' views. Now no alien who professes a belief in polygamy may land on these shores. The anarchist agitation of a generation ago first put up the bars to those professing

political beliefs—or disbeliefs. But it remained for the impact of the Russian revolution to stampede us into legislation to quarantine the country against Communism's challenge. Persons found merely believing in the overthrow of the government by violence, or who belong to organizations held to entertain such a belief, are now excluded, or if already in the country are deportable. So world-wide is the challenge of Communism that these restrictions upon aliens have been generally adopted in other lands with varying degrees of severity.

### *The Object of Communism*

LET me admit at the start the accuracy of Mr. Fish's charges against the international Communist movement. It seeks to overthrow the capitalist system by any means within its power, and to replace it with a government controlled by the working class in its own interests, with confiscation of the property of the present ruling class. Mr. Fish objects to what he calls an alien conspiracy. I far prefer it to the 100 per cent American conspiracy of the Ku Klux Klan.

The same objectives also mark international socialism. But the socialist movement is not subject to attack because its methods are parliamentary and its temper conciliatory. The Communist movement is attacked because it scorns parliamentary methods as futile, and bases its philosophy of change upon the "historically proved necessity of revolution." No ruling class, says the Communists, has yet given up its privileges by peaceful means.

But the violence it preaches is not the philosophy of immediate action, but of a revolutionary change, more or less distant, in the armed conflict between the workers and the propertied class. Let us dismiss at once any notion that the Communist movement now practices or advocates acts of violence. There was no such proof before the Fish Committee—and they listened to some pretty wild stuff. Not only is there not one single case in the ten years' record of Communist prosecutions in the United States of any act of violence, but there is not one case of a specific or general incitement to acts of violence. Every prosecution, every deportation, has turned upon a philosophy of the necessity of violence at some indefinite time in the future, when the working class and the propertied class shall come into open revolutionary conflict.



In evidence of the nature of the violence advocated by the Communist Party, let me cite, not a sympathizer, but Federal Judge George W. Anderson of Boston. In a case ten years ago he said,—and his comments are just as true today:

“It does not advocate force or violence of the bombing, nihilistic, or anrachistic kind; nor sabotage, nor any other form of destruction of property. . . . It meets in halls; openly not secretly; not in armories; not in laboratories, where explosives might be compounded. Its members contribute dues of 40 cents a month. . . . Not much of a revolution can be financed on dues of 40 cents a month levied upon a comparatively small number of wage-earners hitherto prolific in factional discord. Its whole scheme is for propaganda by words, not by deeds. . . . There is therefore not a scintilla of evidence warranting a finding that the Communists are committed to the ‘overthrow of the government of the United States’ by violence or military force or by the use of weapons or bombs or of any other devices for destroying or injuring life or property. ‘Violence’ is no part of their program. . . .

“Their nonreliance upon parliamentarism is not enough to ground an inference that they adopt violence as an alternative. . . . On what, then, does the Communist Party rely for effecting the radical changes in the scope and functions of the government which it urges; changes which its own Manifesto describes as ‘revolutionary’? Upon creating ‘mass consciousness,’ ‘mass action,’ the concrete and effective expression of which is the general strike.”

### *What Shall Our Policy Be?*

THE sole question before us is, how shall we deal with a minority movement professing a revolutionary program? How shall we protect American institutions, our government and our property system, from the menace of some twelve thousand Communists armed with mimeographs and the printing press? What are the practical choices before us? How best may our institutions be preserved?

There are three ways open; suppression, tolerance—with

whatever changes it may bring—and active reform of the evils on which Communism grows.

The policy to which the United States is already committed and which I have indicated, is the way of suppression. We refuse admission not to alien Communists as such, but to persons who advocate what Communists are presumed to believe. Since there is usually no evidence before the immigration authorities save the statements of the aliens themselves, it is not surprising that few Communists or anarchists are excluded. The law does not succeed in excluding them. It succeeds only in making them liars. The same is true of our deportation law. Communists as such are not deportable; but those Communists who are found advocating doctrines or distributing literature construed to advocate the violent overthrow of government, are deportable. Mere membership in the Communist Party has been held to be a deportable offense by the courts in only one case, and that is on appeal. But Mr. Fish would deport all Communists for mere membership, thus reviving the medieval doctrine of guilt by association.

### *Who Are Deported?*

Contrary to popular impression, very few alien radicals have been deported from the United States in recent years. Only sixteen anarchists or Communists were deported between 1926 and 1930, although 626 were sent home in the previous five years. This startling drop in the deportation of Reds was due,

*First*, to a decision of the Department of Labor that Russians are not deportable in the absence of diplomatic relations with the Soviet Union,—and the Department of Labor figures that most Reds are Russians;

*Second*, to the fact that in the early years of the Russian Revolution many Russians wanted to return and did so at the expense of the Department of Labor by admitting their subversive views; and

*Third* to the fact that the Department of Labor discovered that deporting Reds does not decrease radical enthusiasm among aliens—and anyhow it is expensive business. A large proportion of the deportation orders against Communists are contested in the courts. And each such case costs the government between \$1,000 and \$1,500.

Further, there is no great enthusiasm among immigration agents for deporting Reds. Most of that enthusiasm comes from Washington, induced by outbursts of patriotism on the part of some high official. Witness the notorious raids of Mr. Mitchell Palmer of 1920, the "deportations delirium" scored by Assistant Secretary of Labor Post and condemned by leading lawyers. Witness also the recent resumption of these raids after ten years by Secretary Doak, in which some eight thousand aliens have been illegally held and examined in the New York district alone. I have no doubt these raids were inspired if not directly, at least by the atmosphere created by the Fish Committee.

The law gives to the immigration authorities sweeping powers of inquiry and a wide discretion. The Department of Labor in this respect is practically an American "G. P. U.," charged with the power of administrative exile. Only the writ of habeas corpus stands between aliens' rights to a fair hearing and the summary process of deportation.

### *Mr. Fish's Proposals*

But Mr. Fish is not satisfied with these present stringent alien sedition laws. He would add a provision to deport all Communists for mere membership in a Communist organization.

I point out to him, first, that he is in the dilemma of being unable to deport Russians until the United States recognizes the Soviet Union,—and Mr. Fish is opposed to Soviet recognition! Until that time he will have to reconcile himself to the presence in the United States of all Russian Communists, free to agitate without other restraint than the sedition laws.

And there is a second delimma, hardly less difficult. What Communists would he deport? Would he deport only members of the Communist Party affiliated with the Third International? Or would he deport also the expelled members of the Communist Party, who call themselves the "Majority Group" or the Communist "Opposition", none of whom would be as free to set foot in Russia as Mr. Fish himself, and his chances are none too good? Would he deport these enemies of the leadership of the Third International just because they profess a revolutionary philosophy? He might conceivably prefer to have them remain here to weaken the Communist movement by splits and expulsions!

And what would he do about a man like Guido Serio, whom the Civil Liberties Union is now defending in the courts, an Anti-Fascist who escaped four years ago from Mussolini's black-shirts with four stiletto wounds in him. Arriving in this land, he later became a Communist, was arrested by the Department of Labor after an anti-Fascist speech, and was ordered back to Italy to face death or long imprisonment. Despite a visa, and the means in his pocket to go to Soviet Russia, the Department of Labor refuses to permit him to escape from Mussolini. It is said, and with authority, that the Department is acting upon the specific request of the Italian embassy for the return of this enemy of Fascism to Fascist justice.

What kind of America is this that plays this game with a foreign tyrant, as the State Department played it with the Hungarian Ambassador against the admission of Count Karolyi, as the Department of Justice played it with the Italian Ambassador in the prosecution of the Anti-Fascist Carlo Tresca, as the Department of Labor is again playing it today in seeking the deportation of Professor Armando Borghi, anarchist intellectual and bitter foe of Mussolini? Does Mr. Fish, opponent of Fascism as he is, propose to sanction the deportation of these Reds to Fascist justice, or will he sanction their remaining here in a land which patriots once proudly boasted as an asylum for the oppressed?

*Suppress Them!*

**B**UT I do not rest the case against the deportation of Communists merely on this single proposal of the Fish Committee. I rest it rather on the whole theory behind that proposal, evidenced in the Committees recommendation to outlaw *all* Communist activities. What Mr. Fish proposes is a practical dictatorship of the capitalist parties, by outlawing the only revolutionary party in the United States. In a mild way he proposes doing the very thing which he objects to in the Soviet dictatorship. From such a proposal it is not a far cry to the philosophy which justified the expulsion of the Socialists from the New York legislature, and the expulsion three times of Victor Berger, Socialist Congressman duly elected. Nor is it a far cry to stilling the voices of protest of strikers or progressives against economic injustice and the rule of property and privilege. Nor is it far to the uni-

versal registration of the seven million aliens in the United States, with inevitable espionage and persecution.

The theory behind this philosophy is that the government has a right to suppress the advocacy of revolution, on the erroneous ground that mere advocacy produces it. All history should teach us better. Intolerable conditions, not agitation, bring about revolutions. But the courts, with some notable dissents, have sustained the doctrine which Mr. Fish advances, a doctrine counter to our traditions and to the teaching of history. I far prefer the rugged philosophy of Justice Holmes who in a ringing dissent answering the court's approval of a conviction for revolutionary utterances said:

"Every idea is an incitement. It offers itself for belief, and if believed it is acted on, unless some other belief outweighs it or some failure of energy stifles the movement at its birth. The only difference between the expression of an opinion and an incitement in the narrower sense is the speaker's enthusiasm for the result. . . . If in the long run the ideas represented in proletarian dictatorship are destined to be accepted by the dominant forces of our country, the only meaning of free speech is that they be given their chance and have their way."

### *The Case vs. Suppression*

There are a half-dozen good answers to this hysterical proposal to suppress all Communist agitation. The soundest is that such suppression would drive a vital movement of protest underground where it would inevitably resort to secret conspiracy and ultimately to violence. Make Communism a crime and it will call itself by another name. But it will be here just the same, where it cannot be seen, where its propaganda cannot be met in the open by counter-propaganda, where suppressed grievances will break forth into the very violence which Mr. Fish and his friends would avoid.

The second best answer to suppression is that it is no cure for the evils on which Communism grows.

On this point let me quote:

"The problem of Communism is bound up with our other social and economic problems. Hungry men are dan-



gerous; but to the man with a home, a family, and a job, Communism makes no appeal whatever. Communistic ideas are germs in the body politic, hostile, but harmless so long as that body maintains a healthful condition. They are dangerous only when the resistance of that body becomes weakened.

"The solution of this problem lies in the wisdom of our legislators and in the unselfishness of our industrialists. In proportion as we work out economic justice here in America and so order our social system that labor shall share in the economic life of the Nation, as fully and as fairly as it now shares in its social and political life, in just that proportion will radicalism fall of its own inanition and the threat of communism cease to disturb us."

These are not paragraphs from some liberal apologist, some suspect sympathizer with Communism; these are paragraphs of Mr. Fish's associate, Congressman Nelson of Maine, who declined to subscribe to the Committee's report.

I would go further, than Mr. Nelson. I would say that the Communist movement is not only valuable as a mirror of injustices. I would say that it is extraordinarily valuable as an expression of courageous protest. Here in a land without a political opposition to the powers-that-be; in a country whose economic rulers have enormously concentrated and increased their power in the last decade, where conformity is a popular passion,—it is a blessing to have a movement which challenges and startles our complacency. No man joins it without a grievance, without a hope. Communists live lives of devotion, sacrifice, idealism,—and some danger. These are high social qualities. Mistaken or not their views may be, but their moral fibre is real. They alone raise dramatically and militantly the issues which must be raised if we are to be pushed to solutions of our economic and political problems. Communist street demonstrations, their collisions with the police, regarded as futile and unnecessary by many, are, in my judgment, useful in waking up an inert and apathetic public.

To suppress them because of their political philosophy of revolution is to deny the Declaration of Independence, to repudiate Jefferson, to turn our back upon a Lincoln who said: "This

country with its institutions belong to the people who inhabit it. Whenever they shall grow weary of the existing government they may exercise their constitutional right to amend it, or their revolutionary right to dismember and overthrow it." I will concede that a government has the right to defend itself against acts of violence. But to penalize mere revolutionary utterances is to repudiate the whole conception of freedom of speech as the safety-valve of democratic institutions, and the sole guarantee of progress without violence.

Is our government so weak, is our capitalist system so tottering, our American schools and churches and homes such easy prey to Communist propaganda, that we must protect ourselves by outlawing it? I trust our institutions to stand as long as they serve the interests of our people. They will tolerate them even when, as now, they serve them indifferently. Change can come only when a controlling section of our people no longer have faith in the capacity of our system to meet their needs. And when that time comes, the hard facts of life, not the phrases of agitators, will determine what they do.

What Mr. Fish proposes now is to adopt the hysterical program of the fearful little lands bordering on Russia—Poland, Roumania, Latvia,—which suppress with a heavy hand all Communist agitation. Rather would I follow the policy of Germany and France, where Communists sit without restriction in local and national legislatures, where their press is reasonably free, where even alien Communists are admitted and tolerated. If by such a policy Communism will come, let it come as a natural growth, not driven to revolutionary violence by suppression. Those who practice violence against their opponents teach them in turn the uses of violence. "Revolutions," observes a wise federal judge, "seem to change everything except the form of government."

### *A Better Way*

A sane public policy based upon the philosophy of tolerance and civil liberty,—today so disreputable among the self-appointed patriots,—would urge upon our country no deportations whatever of Communists or other radicals for their opinions. Only those guilty of overt acts of political violence, or direct incitement to

them, should be deported. Nor should they be deported for overt acts against foreign governments, unless we subscribe to turning out such men as DeValera and the Irish Republicans, the Anti-Fascists, and even, if you please, the Russian Czarist conspirators in our midst.

It would welcome to our shores refugees from dictatorships abroad without question as to their political views. I would encourage, by unrestricted liberty of agitation, the Communists—aliens and citizens alike—to meet, speak their minds freely, print their papers and get what following they can. They are no such menace to America as the growing and powerful concentration of industry in the hands of the sixty-four men named by ex-Ambassador Gerard. They are no such menace to democratic institutions as political corruption and the money-control of our major parties.

And they are a valuable voice of grievance and a courageous protest against working-class exploitation. "I believe that the weakness of the American character," said Woodrow Wilson, "is that there are so few growlers and kickers among us. We have forgotten the very origins of our being if we have forgotten how to object, how to resist, how to agitate, how to pull down and build up, even to the extent of revolutionary practices, if it be necessary to readjust matters."

If American institutions are what Mr. Fish believes them to be, they will not be destroyed by Communist agitation. If they are not, the sooner they are changed the better.

Those who cannot solve the problems of American life, who stand bankrupt before today's economic collapse, call upon the violence of the law in the name of patriotism to suppress these Reds. Let me call on the good sense of liberal and fearless Americans to counter these counsels of hysteria with a spirit that welcomes change, that faces and grapples with issues, in the sure knowledge that progress without violence can be achieved only by unrestricted agitation of any and all philosophies.

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